

REMARKS

This paper is presented in response to the Final Office Action. By this paper, claims 1, 12 and 17 are amended, and claims 18-20 are canceled. Claims 1-17 are now pending.

Reconsideration of the application is respectfully requested in view of the aforementioned amendments and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Final Office Action.

I. General Considerations

A. Claim Amendments and/or Cancellations

With particular reference to the claim amendments, Applicant notes that while claims 1, 12 and 17 are amended herein, and claims 18-20 are canceled, such amendments and cancellations have been made in the interest of expediting the allowance of this case. Notwithstanding, Applicant, may, on further consideration, determine that claims of broader scope than those now presented are supported. Accordingly, Applicant hereby reserves the right to file one or more continuing applications with claims broader in scope than the claims now presented.

Consistent with the points set forth above, Applicant submits that neither the claim amendments set forth herein, nor any other claim amendments, claim cancellations or statements advanced by the Applicant in this or any related case, constitute or should be construed as, an implicit or explicit surrender or disclaimer of claim scope with respect to the cited, or any other, references.

B. Remarks

Applicant respectfully notes that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the patentable distinctions between any cited references and the invention, example embodiments of which are set forth in the claims of this application. Rather, and in consideration of the fact that various factors make it impractical to enumerate all the patentable distinctions between the invention and the cited art, as well as the fact that the Applicant has broad discretion in terms of the identification and consideration of the base(s) upon which the claims distinguish over the cited references, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration by the Applicant, in this case or any other, of: additional or alternative distinctions between the invention and the cited references; and/or, the merits of additional or alternative arguments.

Applicant notes as well that the remarks, or a lack of remarks, set forth herein are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

II. Rejection of Claims 1-20 under 35 U.S.C. § 103

Applicant respectfully notes at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to demonstrate that three criteria are met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim elements. *MPEP* § 2143.

The Examiner has rejected claims 1-20, of which claims 1, 12, 17 and 18 are independent claims, under 35 USC 103(a) as being unpatentable over US 6,934,740 to Kunst et al. ("Kunst") in view of US 6,373,423 to Knudsen ("Knudsen"). Applicant respectfully disagrees.

A. Claim 1

By this paper, claim 1 has been amended herein to recite "...the electronic circuit further being configured such that a relative magnitude of the optical signal is represented at various points in time by a discrete number of digital values as an intelligent signal that comprises an output of the electronic circuit; ..." Support for this amendment can be found throughout the application, including at page 7, lines 1-15. In contrast, the Examiner has not shown that the references, considered singly or in combination, teach or suggest this element in combination with the other elements of claim 1.

In view of the foregoing, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claim 1 at least because the Examiner has not shown that there is any suggestion or motivation to make the purportedly obvious combination, and because the Examiner has not shown that the references, when combined in the purportedly obvious fashion, teach or suggest all the elements of claim 1. Applicant thus submits that the rejection of claim 1, as well as the rejection of dependent claims 2-11 (which each require all the elements of claim 1), should be withdrawn.

B. Claim 12

By this paper, Applicant has amended claim 12 to recite an "...adjustment circuit coupled to the electronic circuit...wherein a number of steps of resolution between the adjusted minimum and maximum digital values is greater than a number of steps of resolution between the initial minimum and maximum digital values." Support for this amendment can be found throughout the application, including at page 9, lines 9-15. In contrast, the Examiner has not shown that the references, considered singly or in combination, teach or suggest this element in combination with the other elements of claim 1.

In view of the foregoing, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claim 12 at least because the Examiner has not shown that there is any suggestion or motivation to make the purportedly obvious combination, and because the Examiner has not shown that the references, when combined in the purportedly obvious fashion, teach or suggest all the elements of claim 12. Applicant thus submits that the rejection of claim 12, as well as the rejection of dependent claims 13-16 (which each require all the elements of claim 1), should be withdrawn.

C. Claim 17

By this paper, Applicant has amended claim 17 to recite "...the adjustment means is operable to adjust both a relative number of steps of resolution, as well as a relative width of steps of resolution." Support for this amendment can be found throughout the application, including at page 9, lines 1-15. In contrast, the Examiner has not shown that the references, considered singly or in combination, teach or suggest this element in combination with the other elements of claim 1.

In view of the foregoing, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claim 17 at least because the Examiner has not shown that there is any suggestion or motivation to make the purportedly obvious combination, and because the Examiner has not shown that the references, when combined in the purportedly obvious fashion, teach or suggest all the elements of claim 17. Applicant thus submits that the rejection of claim 17 should be withdrawn.

D. Claim 18

As claims 18-20 are canceled herein, the rejection of those claims is moot and should be withdrawn.

CONCLUSION

In view of the amendments and remarks submitted herein, Applicant respectfully submits that each of the pending claims 1-17 is in condition for allowance. Therefore, reconsideration of the objections and rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 1st day of July, 2008.

Respectfully submitted,
/Peter F. Malen, Jr./Reg.# 45576

Peter F. Malen Jr.
Attorney for Applicant
Registration No. 45,576
Customer No. 022913
Telephone: (801) 533-9800

PFM:msm
C:\NrPortbl\DMSt\PMALEN\1857248_1.DOC